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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,937	01/19/2006	Bruno Egnér-Walter	VAL 204 P2	8638
34232 7590 02/06/2009 MATTHEW R. JENKINS, ESQ. 2310 FAR HILLS BUILDING DAYTON, OH 45419				
EXAMINER FERGUSON, MICHAEL P				
ART UNIT 3679		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/537,937

Applicant(s)

EGNER-WALTER ET AL.

Examiner

MICHAEL P. FERGUSON

Art Unit

3679

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-13, 15, 16 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-13, 15, 16 and 18-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities:

Claim 1 (line 9) recites "a part". It should recite --a first part--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11-13, 15, 16 and 18-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 (lines 9-12) recites "said first ball having a first ball cup received in a part of a drive mechanism for a windshield wiper and said second ball having a second ball cup mounted thereon with said second ball cup being received on a second part of said drive mechanism of said windshield wiper". It is unclear as to what structurally defines a part of a drive mechanism or a second part of the drive mechanism, as claim 11 fails to clearly and positively claim any structural limitations which enable one to determine what structurally constitutes such elements. It is unclear as to whether a windshield wiper has been positively claimed as an element of the claimed system, or whether a windshield wiper has only been recited as intended use. Accordingly, one is

unable to properly determine the metes and bounds of such claim. Claims 12, 13, 15, 16 and 18-22 depend from claim 11 and are likewise rejected.

Claim 18 (line 2) recites "wherein said second ball cup comprises a stop that is received in said second recess". Claim 11 (lines 15-16) recites "at least one of a stop or seal mounted in operative relationship with said second ball". It is unclear as to whether the stop claimed in claim 18 comprises a second additional stop to that of the stop claimed in claim 11, or whether it is the same element.

4. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships which render the claims indefinite are as follows:

Claim 11 (lines 9-12) recites "said first ball having a first ball cup received in a part of a drive mechanism for a windshield wiper and said second ball having a second ball cup mounted thereon with said second ball cup being received on a second part of said drive mechanism of said windshield wiper". Claim 11 fails to clearly and positively claim any structural limitations which enable one to determine the structural engagement and functional relationship between the first and second parts of the drive mechanism. It is unclear as to the structural engagement and functional relationship between the first ball cup and each of the first ball, the first pin and the first part of the drive mechanism. It is unclear as to the structural engagement and functional

relationship between the second ball cup and each of the second ball, the second pin and the second part of the drive mechanism.

Claim 11 (lines 15-16) recites "at least one of a stop or seal mounted in operative relationship with said second ball". Claim 11 fails to clearly and positively claim any structural limitations which enable one to determine the structural engagement and functional relationship between the stop or seal and each of the first and second balls, the first and second pins, the first and second ball cups and the first and second parts of the drive mechanism.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 11, 16, 19 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson et al. (US 6,719,312).

As to claim 11, Thompson et al. disclose a ball pin system comprising:

a first ball **132**; and

a first pin **136** integrally formed with the first ball in a single one-piece construction; and

a second ball **100** having a second pin **122** integrally formed with the second ball in a single one-piece construction, the second pin being mounted into a first recess **130**

of the first ball so that the second ball becomes rigidly secured to the first ball after the second pin is received in the first recess of the first ball;

the first ball having a first ball cup **78** received in a first part **34** of a drive mechanism capable of use with a windshield wiper and the second ball having a second ball cup **60** mounted thereon with the second ball cup being received on a second part **20** of the drive mechanism, the first and second ball cups being pivotable or rotatable with respect to the first and second balls, respectively;

at least one of a stop or seal **62,152** mounted in operative relationship with the second ball;

the first ball comprising the first recess situated generally opposite first pin, the first recess having a recess dimension and the first pin having a pin dimension, the pin dimension being at least as large as the recess dimension (Figures 2 and 3).

As to claim 16, Thompson et al. disclose a ball pin system wherein the first ball cup **78** is molded onto the first ball **132** (ball cup **78** fits the contours of ball **132**, thus the ball is molded onto the first ball; Figure 2).

As to claim 19, Thompson et al. disclose a ball pin system wherein the first ball **132** comprises a first diameter and the second ball **100** comprises a second diameter, the first and second diameters being the same (Figure 2).

As to claim 22, Thompson et al. disclose a ball pin system wherein the second pin **122** has a second pin dimension, the second pin dimension being substantially the same as the recess dimension so that the second pin may be press fit into the first recess **130** (Figure 2).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 20 and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al.

As to claim 20 and 21, Thompson et al. do not disclose any structural or functional significance as to the specific size of the first and second balls **132,100** (Figure 2). Thompson et al. fail to disclose a ball pin system wherein the first ball comprises a first diameter and the second ball comprises a second diameter, wherein the second diameter is smaller than the first diameter.

The applicant is reminded that a change in the size of a prior art device, wherein no structural or functional significance as to the specific size of an element is disclosed, is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ball pin system disclosed by Thompson et al. wherein the second ball diameter is smaller than the first ball diameter as Thompson et al. do not disclose any structural or functional significance as to the specific size of the first and second balls, and as such change in size is a design consideration within the skill of the art which would yield expected and predictable results.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. in view of Maughan et al. (US 6,059,480).

As to claim 12, Thompson et al. disclose a ball pin system wherein the second pin **122** is press-fit into the first recess **130** (Figure 2). Thompson et al. fail to disclose a ball pin system wherein the second pin is knurled.

Maughan et al. teach a ball pin system wherein a ball pin **34** is knurled and press-fit into a recess **32**; knurling **40** provides a secure connection which prevents relative rotation between pin **34** and recess **32** (column 1 lines 24-34, column 2 lines 24-30, Figures 1 and 4-7). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ball pin system disclosed by Thompson et al. wherein the first pin is knurled as taught by Maughan in order to provide a secure connection which prevents relative rotation between the second pin and the first recess.

Response to Arguments

10. Applicant's arguments filed November 20, 2008 have been fully considered but they are not persuasive.

As to claim 11, Attorney argues that:

Thompson et al. do not disclose a ball pin system comprising a second ball having a second pin *integrally formed with the second ball in a single one-piece construction, the second pin being mounted into a first recess of the first ball; at least one of a stop or seal mounted in operative relationship with the second ball;*

and the first recess having a recess dimension and the first pin having a pin dimension, *the pin dimension being at least as large as the recess dimension.*

Examiner disagrees. As to claim 11, Thompson et al. disclose a ball pin system comprising a second ball **100** having a second pin **122** integrally formed with the second ball in a single one-piece construction, the second pin being mounted into a first recess **130** of the first ball **132**; at least one of a stop or seal **62,152** mounted in operative relationship with the second ball; and the first recess having a recess dimension and the first pin **136** having a pin dimension, the pin dimension being at least as large as the recess dimension (Figures 2 and 3).

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (6:30am-3:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MPF
01/31/09

/Michael P. Ferguson/
Primary Examiner, Art Unit 3679